

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

2003P01144WOUS

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on eFiled

Signature _____

Typed or printed
name _____

Application Number

10/566,220

Filed

01/26/2006

First Named Inventor

Christine Linke et al.

Art Unit

3637

Examiner

Janet Marie Wilkens

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

/Andre Pallapies/

Signature

☐ assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

Andre Pallapies

Typed or printed name

☐ attorney or agent of record.

Registration number _____

252-672-7927

Telephone number

☒ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 62,246

August 17, 2010

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below.

☐ *Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Statement of Arguments for Pre-Appeal Brief Request for Review

Claims 19-23, 25-36, and 38-40 are pending in the applications. The July 13, 2010 Advisory Action indicates that the June 21, 2010 Amendment has been entered. The Advisory Action indicates that claims 20, 26, 30 and 38-40 include patentable subject matter.

The Claimed Invention

The present invention relates to a refrigerator that includes a housing having a door safety catch. The housing has at least two housing parts, including a body and at least one door, and the housing encloses a heat-insulated interior compartment.

The door safety catch includes a catch element pivotably mounted against a restoring force on a first one of the body housing part or the door housing part and a projection mounted on a second one of the body housing part or the door housing part and cooperating with the catch element. The door safety catch further includes a shaft about which the catch element can be pivoted mounted in the first one of the body housing part or the door housing part, the shaft being mounted on a side wall of the first one of the body housing part or the door housing part in a configuration in which the shaft crosses a side wall of the first one of the body housing part or the door housing part.

In related art door safety catches for refrigerators, a bearing is provided that itself is mounted to the refrigerator door or body and the shaft of the catch element is retained in this bearing. Considerable forces act on this bearing when opening and closing the refrigerator door. If the bearing is, in particular, configured as a plastic housing shell, the bearing can be damaged and even destroyed in extreme cases. On the other hand, the

shaft of the catch element according to the present invention is mounted so that it crosses a side surface of the respective door or body of the refrigerator on which the catch element is mounted, whereupon considerable forces acting on the shaft can be introduced into this respective door or body of the refrigerator and corresponding reduction in stresses on a housing shell can be achieved as well as a reduction of the mechanical loading capacity demands imposed on the housing shell.

The Rejections Under 35 U.S.C. §102(b)

Claims 19, 21-23, 25, 27, 28, and 31-36 stand rejected under 35 U.S.C. §102(b) as being anticipated by Anderson (U.S. Patent No. 2,385,961). Applicants respectfully traverse this rejection.

The grounds of rejection state that Anderson teaches all of the limitations set forth in the claims, including a catch element (38, 28, 35) with a shaft (27) about which the catch element can be pivoted and that is mounted in a first housing part (the door) while crossing a side wall (top wall 24 found in the door) of the first housing part. The grounds of rejection further state that a section of the shaft (top end portion) engages the side wall (24) of the first housing part via a receiving portion (opening) and the shaft is mounted on the side wall in a configuration in which the shaft crosses it (see Fig. 5). Namely, the grounds of rejection allege, the catch element is rotated so that it moves across the surfaces of members 24 and the top of the door and the shaft is mounted to and intersects/runs counter to members 24. Finally, the grounds of rejection state that

members 24 can be considered side walls of the door, indicating that these members act as barriers and form part of a housing for the latch and are located in the door.

Applicants respectfully submit that one of ordinary skill in the art would recognize that the sides 24 of the sheet metal housing of the latch of Anderson are not “walls” of a door. Rather, these sides are not walls in that they do not form, with other walls, for example, defined space. Further, the grounds of rejection inherently acknowledge this in providing that “the members ...form part of a housing.”

In Anderson, shaft or rod 27 of the latch is not mounted on outer side 12 or on inner plate 8 but is, instead, mounted to a structure that is not a wall - specifically, supporting plate 14 - that in fact itself is located in an interior space bounded by “walls” - the outer side 12 and the inner plate 8. Applicants note that the sides 24 of the sheet metal housing of the latch of Anderson are formed as a pair of spaced, parallel sheet metal flanges and these sides 24 of Anderson, along with the remainder of the latch of Anderson, are mounted on the supporting plate 14 that extends behind the outer side 12 of the door 7 of the Anderson refrigerator. The “shaft” 27 of the Anderson refrigerator is mounted to the “door housing part” 7 by virtue of the “shaft” or rod 27 being retained in the sheet metal latch housing having the spaced parallel sides 24 and flanges 26 with this housing, in turn, being mounted to the door 7 via screws passed through slotted openings of the flanges 26 and the flanges 26 being mounted on the supporting plate 14. Thus, Applicants respectfully submit that one of ordinary skill in the art would understand that the actual “walls” of the door 7 of the Anderson '961 refrigerator are the outer side 12 and inner plate 8 of the door 7. As such, Applicants respectfully submit that independent

claim 19 is allowable. Claims 21-23, 25, 27, 28, and 31 - 36 depend ultimately from claim 19 and are allowable for the same reasons as claim 19, as well as for their own patentable features.

The Rejections Under 35 U.S.C. §103(a)

Claim 29 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Anderson in view of Parera (U.S. Patent No. 3,733,749). Applicants respectfully traverse this rejection. As noted, Anderson discloses a refrigerator having a door safety catch. Parera discloses reversible hinges between a door and a housing part. Applicants respectfully submit that neither Anderson nor Parera, alone or in combination, disclose or suggest the refrigerator having the door safety catch of the present invention. For example, Anderson does not disclose or suggest a refrigerator having a shaft about which a catch element can be pivoted mounted in a body housing part or a door housing part, with the shaft being mounted on a side wall of this respective body housing part or door housing part in a configuration in which the shaft crosses a side wall of the respective body housing part or door housing part. Parera does not overcome the deficiencies of Anderson in the disclosure of its reversible hinges.

CONCLUSION

In view of the above, allowance of claims 19-23, 25-36, and 38-40 is respectfully requested. If there are any questions regarding the remarks herein, please kindly contact the undersigned. If an extension of time for this paper is required, petition for extension is herewith made.